Case and Comment
POCKET EDITION
Vol. 26 November—December 1920
No. 6

Established 1894. Published by The Lawyers Co-operative Publishing Company. President, W. B. Hale; Vice-President, J. B. Bryan; Treasurer, B. A. Rich; Secretary, G. M. Wood. Office and plant: Aqueduct Building, Rochester, New York. Editor, Asa W. Russell.

Liability of Member of Political Committee for Expenses

MEMBERS of a voluntary committee organized to promote the interests of a candidate for election are held personally liable, jointly and severally, in Vader v. Ballou, 151 Wis. 577, 139 N. W. 413, 7 A.L.R. 216, for expenses incurred with their knowledge for the furthering of the enterprise, which are appropriate to the purpose for which the organization was formed. The plaintiff sought to recover from the defendant, as a member of a political committee, for the printing done for the committee at the order of its agent. It was reasoned that, since the members of the committee were aware of the work that was being done, they were all liable to the plaintiff; and, since the liability was joint and several, the defendant was bound on the obligation incurred.

The rule that the members of a voluntary association, not organized for profit, are jointly and severally liable as principals on contracts purporting to have been made by, for, or in the name of the association, when they have given either their assent or their subsequent ratification thereto, was applied in Richmond v. Judy, 6 Mo. App. 465, where it appeared that the plaintiff had been ordered to paint and post political bills and notices by one of the defendants, all of whom were members of a campaign committee. The plaintiff sought to recover for his work and material, the bills for which had been approved by some of the defendants. It was held that, since there was evidence tending to show that the orders were given with the sanction of the committee, all the members thereof might be held

liable for the goods and services. The court said: "Persons who organize as a campaign committee on the eve of an election may, perhaps, be supposed to know that their associates, in the name of the committee, will incur certain obvious expenses in giving public notice of political meetings, and to sanction such outlay by the very fact of their organization."

It appeared in Sizer v. Daniels, 66 Barb. 426, that the plaintiff had been engaged by a "county committee" to advance the interests of a political party, and that they had contracted to pay a certain sum for expenses incurred therein. It was held that liability to the plaintiff was incurred only by those members who had voted for the resolutions employing the plaintiff, unless those not voting had authorized the others to take such action. The committee were not relieved of liability by the expiration of their term of office. A committee succeeding the defendants were not bound by the obligations incurred by their predecessors.

That members of a political party cannot be considered to have pledged their personal credit for the obligations of the party paper, is laid down in Hosman v. Kinneally, 43 Misc. 76, 86 N. Y. Supp. 263, and Lightbourn v. Walsh, 97 App. Div. 187, 89 N. Y. Supp. 856. In the former case the plaintiff sought to recover for services performed on a newspaper, from the treasurer of a political party which conducted the paper. By statutory provision the plaintiff had no right of action against an unincorporated association, unless he might have proceeded against all the members of the association. It was held that the members of the party had never contemplated or authorized the transaction of business on their credit, nor would such authorization be presumed on the part of the members of an association except where the business transacted was necessary for the preservation of the association.

In the latter case, wherein the plaintiff, an employee on a paper published by the political party of which the defendant was treasurer, sought to recover for his services, it was held that he could not recover, since it did not appear that authority had ever been given to the defendant to contract any debts in excess of the funds established by the payment of membership dues. No assumption could be made that the members of a political party pledged their credit for the indebtedness of the paper.

The decisions pertaining to the personal liability of a member of a voluntary association, not organized for personal profit, on a contract with a third person, are gathered in the note in 7 A.L.R. 222.

Animals in Court

THE campaign in Paris to destroy the millions and millions of rats there reminds the London Law Notes "that in olden days in France, legal proceedings used to be taken against them. An old story is told of a French advocate who defended the rats and got them off. They did not appear to the first citation; on his application the matter was adjourned so that they might all be served. Again they did not appear; he obtained from the court an extension of time on the ground that many were old and sick. Still they came not. Their advocate pleaded that they were most anxious to obey the citation and attend the court, but they went in fear of the cats, and asked the court to secure their safety in attending. This course the court thought most reasonable, but cat owners said they could not give the necessary guaranty; so the matter was adjourned indefinitely. This is not fiction; it is a true story."

This procedure is no longer in vogue; but rats are still an object of judicial animadversion. In Stearn v. Prentice Bros. [1919] 1 K. B. 394, 9 B. R. C. 535, a manufacturer of fertilizers, who, for the purpose of his business, had on his premises a heap of bones, not unusual or excessive in quantity, which caused large numbers of rats to assemble there, was held not liable for damage done to his neighbor's crops by the rats.

It appeared that the defendants had premises on land divided by a meadow from the plaintiff's fields, where the damage was done. The defendants had a factory on their premises, where they had carried on the business of artificial manure manufacturers for at least thirty years. The plaintiff had made no complaint till the years 1916 and 1917, when there had been a large increase in the numbers of rats on the plaintiff's fields. For the purpose of their business the defendants had a heap of bones, and this attracted the rats; between the defendants' factory and the plaintiff's fields there were runs which showed that large numbers of rats passed backwards and forwards between the defendants' factory and the plaintiff's fields. There was no evidence to show that the bone department of the defendants' business had been increased, or that the heap of bones was larger than in the past years, or that the increase in the numbers of rats was due to anything done by the defendants. The county court judge, at the conclusion of the plaintiff's case, held

that there was no evidence to prove a cause of action, and entered judgment for the defendants. The plaintiff appealed.

In its judgment the court said: "Is a man who, in the ordinary course of his business, has large quantities of food on his premises, which is likely to attract rats, responsible for damage caused by rats so attracted, without any evidence that the quantities of food were unusual or excessive? It is certain that this is a novel cause of action. Bone-manure manufactories must have existed for a very great number of years. Bones are a natural but valuable waste product from the rearing of cattle or sheep for slaughter for the purpose of providing meat. Rats have been the enemies of farmers ever since land was cultivated. If proper measures are not taken by occupiers of lands to destroy them, they quickly increase. They are *feræ naturæ*. I think under these circumstances it is incumbent on the plaintiff to produce some authority in support of his proposition. As Lord Coleridge, Ch. J., said in Giles v. Walker, L. R. 24 Q. B. Div. 657, 59 L. J. Q. B. N. S. 416, 62 L. T. N. S. 933, 38 Week. Rep. 782, 54 J. P. 599: 'I never heard of such an action as this. There can be no duty as between adjoining occupiers to cut the thistles, which are the natural growth of the soil.'"

The court referred to Boulston's Case, 5 Coke, 104 b, 77 Eng. Reprint, 216, and remarked: "It is there held that 'if a man makes cony-burrows in his own land, which increase in so great number that they destroy his neighbors' land next adjoining, his neighbors cannot have an action on the case against him who makes the said cony-burrows; for so soon as the conies come to his neighbor's land, he may kill them, for they are *feræ naturæ*, and he who makes the cony-burrows has no property in them, and he shall not be punished for the damage which the conies do in which he has no property, and which the other may lawfully kill.' That was an action on the case, as here, and seems to be directly in point. I am not aware that this decision has ever been overruled or questioned."

The learned judge concluded: "In my opinion there is no authority for the proposition put forward by the plaintiff. I think the appeal fails, and must be dismissed, with costs."

An extensive search has failed to disclose any other case upon the question whether the attracting of rats to premises is an actionable nuisance.

The elusive rat seems never to have been brought into open court *in propria persona*, but various other animals have been haled there

on due occasion. A news item issued during the summer months stated that Minnie, a bare-legged, red-jacketed, green-capped monkey, subpœnaed as star witness for the prosecution in a gambling case, successfully wrecked the dignity of a New York magistrate's court. Minnie was supposed to show how she aided her owner in conducting a corner lot game of chance by pulling out of a box numbered balls upon which participants had placed bets. Instead, this is what Minnie did: Leaped onto the magistrate's desk, causing the judge to duck; drained a bottle of ink; hurled at an attendant a glass of water he handed her as a chaser; tore the coat of a detective ordered to arrest her, and finally departed from court screeching.

The narrative ends here, from which we may infer that this flagrant contempt of court passed unpunished. Anciently they managed matters differently. Animals often were held to strict accountability. The London Law Notes observes that "the French were much given to trying animals. There was a celebrated case in 1760 or thereabouts, of the donkey who drank the Holy Water: the poor beast was hanged and burnt."

It is said in Chamberlayne on Evidence, § 3591, that the judge may, in the exercise of his administrative powers, permit the production of animals in court, whenever the evidence afforded thereby is relevant to the issue. The case of Line v. Taylor, 3 Fost. & F. 731, is cited. This was a prosecution for keeping a fierce and mischievous dog, and the animal was brought into court for the inspection of the jury, that they might determine as to his ferocity.

Similarly in Thurman v. Bertram (Exch. D.) 20 Albany L. J. 151, a baby elephant which was alleged to have frightened plaintiff's pony by its "unsightly and unusual appearance" was brought into court and stood, a mute witness for the defense, before the jury.

Professor Wigmore, in his Treatise on Evidence, § 1154, cites "the following classic example" to illustrate "the propriety of experimentation when the fact ascertainable from it is a relevant one: 'When I was Chief Justice of the Common Pleas (I did like that court!) a cause was brought before me,' said Lord Eldon, 'for the recovery of a dog, which the defendant had stolen in that ground (lying in the fields beyond his house), and detained from the plaintiff, its owner. We had a great deal of evidence, and the dog was brought into court and placed on the table between the judge and witnesses. It was a very fine dog, very large and very fierce, so much so that I ordered a muzzle

to be put on it. Well, we could come to no decision; when a woman, all in rags, came forward and said, if I would allow her to get into the witness box, she thought she could say something that would decide the cause. Well, she was sworn just as she was, all in rags, and leant forward towards the animal, and said, "Come, Billy, come and kiss me!" The savage-looking dog instantly raised itself on its hind legs, put its immense paws around her neck, and saluted her. She had brought it up from a puppy. Those words, "Come, Billy, come and kiss me," decided the cause.'"

In § 177 of the same work there is a reference to the story, quoted in 2 Campbell's Lives of the Chancellors, 37, of the beggar woman's little dog, which was bought from a thief by the wife of the chancellor, Sir Thomas More. The chancellor allowed the claimant to prove her property by the dog's recognition of her.

According to an amusing paragraph taken from the Chicago Herald, and preserved in § 177, "a German saloon keeper in Chicago lost his parrot; in the possession of an American saloon keeper a similar parrot was found; the ownership of this parrot was claimed by both parties, each affirming that he had possessed and trained the parrot for a long time, and that the parrot would show the effect of this training in his language; at the trial before Justice of the Peace Eberhardt, the parrot would not speak; he was therefore committed temporarily to the custody of a police captain; 'Captain Barcel will keep the bird in custody, and will keep his ears strained to catch either 'Set 'em up again,' or 'Unser bier ist gut.'"

This evidential use of the behavior of animals, states Professor Wigmore, "is well established in judicial practice, though it has seldom been brought before courts of appeal."

O Tempora!

EVEN Father Time may spread a net to catch a thief. At least, that is apparently what happened in the early morning of the October day when the clocks were set back.

It seems that a warehouse had been systematically robbed for some time, but that all efforts to capture the thieves had proved unavailing. They, apparently, had timed their visits to the warehouse for 5 A. M., because the police go off duty at that hour. But the enterprising burglars forgot to set back their watches an hour when the time changed, and so reached the warehouse at 4 A. M., while the police were still on duty. The result was that they were trapped.

Liability of Public Accountant

THAT a public accountant is not, merely because of negligence in making an audit of the books of the corporation, under contract with it, liable for losses sustained by one who purchases corporate stock in reliance upon the audit, is held in Landell v. Lybrand, 264 Pa. 406, 107 Atl. 783. This decision rests upon the ground that since there were no contractual relations between the purchaser of the stock and the accountant, and as the latter owed no duty to the former, the accountant could not be guilty of any negligence of which the purchaser could complain. This principle, as noted in the annotation appended to this case in 8 A.L.R. 461, is supported by such cases as National Sav. Bank v. Ward, 100 U. S. 195, 25 L. ed. 621, and the decisions therein cited. That was an action against an attorney by a lender of money on real estate security, for negligence in examination of the title. The attorney had been employed by the borrower, had made the examination prior to any negotiations for the loan, without knowledge of the use to which his search was to be put, and without any contractual relations or communications of any kind with the plaintiff. It was held that, in the absence of fraud or collusion, the attorney was not liable, as his duty was only to his client.

There is also a group of decisions, on the question of the liability of a title abstracter to one not in contractual relations with him, which appear to be somewhat analogous.

The duties and liabilities of expert accountants, where contractual relations existed between them and the plaintiffs, are considered in several cases. Among them is Fox v. Morrish, 35 Times L. R. 126, which involves the question of the duty and liability of an accountant to a manufacturer, who employed him to examine the books of the concern, it being held that the accountant was negligent in failing to verify the bank balance as shown on the books.

In East Grand Forks v. Steele, 121 Minn. 296, 45 L.R.A.(N.S.) 205, 141 N. W. 181, Ann. Cas. 1914C, 720, it is stated in the syllabus by the court that one who holds himself out as an expert accountant, and accepts employment as such, impliedly represents that he possesses the ability and skill of the average person engaged in that branch of skilled labor; and that an action to recover damages arising from negligence of an ex-

pert employed to audit accounts is founded on breach of contract, and not on tort.

In Smith v. London Assur. Corp. 109 App. Div. 882, 96 N. Y. Supp. 820, the court, after stating that public accountants now constitute a skilled professional class, and are subject generally to the same rules of liability for negligence in the practice of their profession as are members of other skilled professions, quoted Cooley's statement of the rule governing the measure of such liability (Cooley, Torts, 2d ed. p. 277) as follows: "Every man who offers his services to another, and is employed, assumes the duty to exercise in the employment such skill as he possesses with reasonable care and diligence. In all those employments where peculiar skill is requisite, if one offers his services, he is understood as holding himself out to the public as possessing the degree of skill commonly possessed by others in the same employment, and, if his pretensions are unfounded, he commits a species of fraud upon every man who employs him in reliance on his public profession. But no man, whether skilled or unskilled, undertakes that the task he assumes shall be performed successfully, and without fault or error. He undertakes for good faith and integrity, but not infallibility."

Law and Occult Forces

IN EARLIER centuries the belief in witchcraft had power to goad whole communities into frenzy, and to make kingdoms lurid with witch-consuming fires or ghastly with the gibbet. Fortunately a belief in this fanatical delusion has nearly passed, and now lingers in the minds of but a few visionaries, or among members of the most ignorant stratum of society. But it still has power to project vague shadows from the realm of the invisible and unknown into the modern court room. Not long since, according to the Chicago Tribune, a negress complained to a magistrate that she had been hoodooed. She declared that a specified person had sprinkled some devil powder on her front steps, making the door useless. For several days she had been unable to use the door, and anyone who passed the threshold was bound to fall under the spell. Her testimony was confirmed by a witness. The magistrate was unable to recall just how the early Puritan proceeded in such a case, but told the accused to take off the spell, and, finding no law for witchcraft on his books, dismissed the case.

The law has dealt leniently with those possessed of a belief in witches or witchcraft, at least to the extent of holding that it does not constitute an insane delusion (see 37 L.R.A. 272), or that it is not of itself sufficient evidence of insanity to invalidate a will (see 16 L.R.A. 677).

The courts from time to time have been called upon to take cognizance of sinister forces exerted through the agency of threats and fear. An unusual case, arising in Kentucky, was recorded in the daily press, where the question involved was whether a man could be charged with crime because his threats led another to commit suicide. It is said he told his victim that he had "framed up" a charge of theft, and had witnesses who would testify so as to insure conviction.

To render actionable a threat causing fear, it is held in Brooker v. Silverthorne, 111 S. C. 553, 99 S. E. 350, that it must be of such a nature and made under such circumstances as to affect the mind of a person of ordinary reason and firmness so as to influence his conduct, or it must appear that the person against whom it was made was peculiarly susceptible to fear, and that the person making the threat knew and took advantage of the fact that he could not stand as much as an ordinary person.

This decision is accompanied, in 5 A.L.R. 1283, by a note on civil liability for using threatening or abusive language.

By the great weight of authority actual physical injury to a woman is not essential to the right to recover substantial damages on the ground of an assault upon her, but injuries due to fright caused by the assault may be recovered for, although no other physical injury is suffered. In this regard it is to be noted that, in a broad sense, injuries due to fright are physical injuries. In Hickey v. Welch, 91 Mo. App. 4, the defendant entered upon the premises of the plaintiff, and used violent and threatening language, and pointed a pistol at her in a menacing way. He was held liable to the plaintiff for injury to her from fright, which caused a nervous disorder.

In considering the right to recover damages for fright without physical injury, the court asked: "Why should the fact that the sufferer was frightened cut him off from redress? Fright is itself a result of an agitation or shock to the nervous system, and when this shock is severe enough, it produces more than fright,—namely, an impairment of health in some form or other, and more or less serious. All emotions are due to minute physical changes in the nervous system, and when the change resulting from the shock is extensive, it sometimes induces disease. The suffering thus occasioned is as much due to physical injury as that which results from an open wound on the surface of the body. If human bodies were composed only of bones, muscles, and viscera, or if suffering could only be caused by injuring those parts, the theory of this legal doctrine would be accurate; but it is matter of common knowledge that a person may be physically whole and uninjured, to all appearances, and still be a great sufferer from nervous afflictions. A physical injury is at the basis of this class of disorders, as of all others, but it is too obscure to be readily observed. False pathology and physiology seem to have led to applications of the rule in question which were extremely unjust. The ancient superstition which found the proximate cause of mental and nervous diseases in diabolical possession was scarcely more ridiculous than the theory that when an ailment of that kind follows a fright, due to another's tortious act, the fright, and not the tort, is the proximate cause of the injury. Such diseases, like all others, have their origin in a physical lesion, not a metaphysical state."

A discussion of the necessity of physical contact or injury, to render one civilly liable for an assault upon a female person, may be found in 6 A.L.R. 989.

We have as yet no adequate grasp of the manner in which the mind reacts upon the body; but it is evident that threatening language and menaces may be as injurious as blows.

For this reason, the courts have held, in a majority of cases, that a statutory provision specifying treatment endangering life as a ground for divorce does not require the use of physical violence, but that conduct, violent or otherwise, which, under all the circumstances of the case, endangers life, is intended thereby. In Berry v. Berry, 115 Iowa, 543, 88 N. W. 1075, which is cited in the annotation on this subject in 5 A.L.R. 713, the court said: "With the husband a strong man of violent temper and profane and abusive tongue, and the wife a woman in frail health and of weak and sensitive nerves, it does not require murderous blows or the display of firearms to endanger life, within the meaning of the statute. Upon such a woman every cruel and foul epithet falls with as killing effect as a stroke from the clenched fist. Cruelty of this kind is a good ground for divorce."

Wooden Tokens.

A LOCAL attorney was recently given a check for $25, drawn on the Central Bank of Rochester, New York, and written out on a piece of wood. He was assured that the check was good, and proved this when the bank accepted it. It would seem to be immaterial, aside from the matter of custom or convenience, whether a check made out in due form is inscribed on a block of wood, or a piece of birch bark, or a roll of parchment.

A shingle on which it was shown that an intestate entered from day to day an account of timber hewed by him, under a contract, was held admissible in evidence for his administrator, in a suit on the contract in Kendall v. Field, 14 Me. 30, 30 Am. Dec. 728.

Even a notched stick was held admissible as a book of original entries in Rowland v. Burton, 2 Harr. (Del.) 288.

A Deceptive Title.

IN THE case of Boswell v. Johnson, reported in 5 Ga. App. 251, 62 S. E. 1003, Judge Powell prefaced his opinion with a brief reference to the literary associations conjured up by the names of the litigants.

"This is not," said he, "as the title of the case might suggest, an action by Dr. Johnson against his friend Boswell for any failure of the latter to include all the sayings and doings, witticisms (good, bad, and indifferent, real or imaginary), and divers eccentricities of the former in the famous biography, nor yet an action by the faithful Boswell against the learned doctor for services in his behalf, but is a prosaic affair between horsedealer Johnson and mechanic Boswell as to the purchase price of two mules."

Legal Aspects of Photography

PHOTOGRAPHY is not a profession, according to the decision rendered in Cecil v. Inland Revenue Comrs. 36 Times L. R. 164, which holds that one engaged in business as a photographer of a special kind is not carrying on a "profession," within the meaning of § 39 of the Finance Act of 1915, and therefore is not exempt from the payment of excess profits duty.

It appeared that Mr. Cecil had always regarded photography as a hobby. He was elected a Fellow of the Royal Photographic Society and a member of the London Salon of Photography, which held exhibitions of the work of those who treated photography as an art. He was able to get 10 guineas for special photographs, because he composed the picture in his mind, and settled the pose, arrangement, and light and shade, exactly as an artist in oils or water colors would.

When he appeared before the commissioners to contest the assessment, evidence was given by John Collier, the artist, by F. J. Mortimer, the art editor of "Amateur Photography," and by John Hassall, the illustrator, each of whom said Mr. Cecil's work showed distinct individuality and great artistic merit and feeling, and was different from ordinary photography. Counsel submitted that in this state of circumstances he was an artist in photography, and not an ordinary photographer carrying on a trade or business, and that therefore he came within the exceptions.

Mr. Justice Rowlatt, giving judgment, said it was commonplace by this time that a profession could not be exhaustively defined, but for the purpose of this case certainly a man did not exercise a profession unless he exercised an art the profits of which were dependent solely upon his personal qualifications. In his opinion, the decision of the commissioners was not erroneous in point of law. They had decided a question of fact without any misconception of the law. . . . It was true that the appellant had very great ability in posing and grouping his subjects, and in seeing how an attractive picture could be made. He did things in a more elaborate way than an ordinary photographer, but it was all a question of degree, and it was impossible to say that the commissioners had decided wrongly.

A recent decision involving the use of the photographic art is Wintler Abstract & Loan Co. v. Sears, 108 Wash. 461, 184 Pac. 309,

7 A.L.R. 152, which holds that although a mortgage of records containing abstracts of title of property in a county carries a mere lien, the mortgagor cannot photograph the records for use in a competing business, to the destruction of the security of the mortgage, where the statutes give a mortgagee a right immediately to foreclose if he has reasonable cause to believe that the mortgaged property will be destroyed, and make destruction by the mortgagor a misdemeanor. This seems to be a case of first impression.

That photographic enlargements of palm prints may be used by experts in testifying before the jury as to identity in a criminal case was determined in State v. Kuhl, 42 Nev. 185, 175 Pac. 190, 3 A.L.R. 1694. "By this means the jury were better able to judge of the correctness of the testimony as it was being given," states the court, "and to estimate its weight and significance. This method of presenting proof has received the sanction of the highest authority."

In an action brought to recover damages for personal injuries, the admission in evidence of a photograph of the deceased person, taken after his death, for the purpose of indicating his appearance with respect to age and vigor, was held not prejudicial in Murray v. Omaha Transfer Co. 95 Neb. 175, 145 N. W. 360, 7 A.L.R. 1343, where the recovery was not excessive, since the jury's consideration of the photograph could only affect the measure of damages.

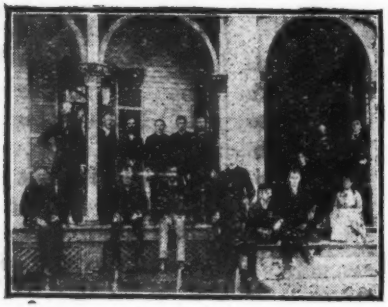
Warrant for Search of Train

THE power to issue a warrant for the search of a train was considered apparently for the first time in the West Virginia case of Clark v. Norfolk & W. R. Co. 100 S. E. 480, 7 A.L.R. 117, which holds that a warrant issued by a justice of the peace, commanding search to be made of a certain passenger train to ascertain if intoxicating liquors are being carried thereon contrary to law, is not proper evidence to be considered by the jury against the plaintiff, in the trial of an action by him against the carrier for his unlawful expulsion from the car. Such warrant is void. The court considered that a passenger train was not one of the places contemplated by the West Virginia statute, of which search might be made.

Generally, for the application of constitutional guaranties against unreasonable searches for, or seizures of, intoxicating liquor, reference may be made to the annotation in 3 A.L.R. 1514.

"Of Individuals Living at the Same Time
Among Generations of Men the Reverse of th

THE NEW TH



The Birthplace of the Original "Lawyers' Edition" in 1882.

Unite
Supreme

(Lawyers' Edition) with the

The Product of the Exp

THE same spirit of co-operative service that prompted the founders of the "Co-ops" back in 1882 to undertake the publication of the now famous Lawyers' Edition of the United States Supreme Court Reports animates us, their successors, in the preparation and presentation of this New Edition of the same work.

¶ To our task we have brought, as a heritage of the generations gone before us, a knowledge of the needs of the profession gained from

and painstaking study.

¶ Proud of the high standards

set, we have spared no effort

make this new work worthy

them and a worthy vehicle for

decisions of the nation's

tribunal.

¶ The result is a modern

Supreme Court Reports printed

THE LAWYERS CO-OPERA

In New York
at 150 Nassau Street

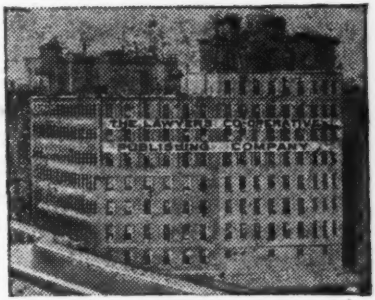
"THE CO-OPS."

Time ... Has, of Course, the Greatest Experience; But ... ue."—Sydney Smith.

...PAPER REPRINT

...he

...ited States ...e Court Reports



The Plant that is back of the Reprint in 1920.

...th the ... Revised Rose's Notes Bound In

...e Experience of Generations of Men

...from lo... thin paper to conserve shelf-space and permit of easy handling, and ...lards th... containing in the form of the new ...effort ... revised Rose's Notes, a judicial ...worthy ... history of every case, adding im- ...le for t... measurably to the every-day utili- ...'s highe... ty of the work.

...rn set ... ¶ The materials and workmanship ...printed ... throughout are of the best, making this set a handsome addition to any library.

¶ Nor have we forgotten that the co-operation of the legal profession made possible the first "Law. Ed." and gave us the important word in our name.

¶ True to that word, we are offering this new "Law. Ed." on terms which place it within the reach of all.

¶ We will gladly furnish detailed information upon request.

...ERATIVE PUBLISHING COMPANY

ROCHESTER, N. Y. *In Chicago at 106 N. LaSalle Street*

Liability of One Causing Personal Injury for Mistake of Surgeon

WHERE one who has suffered personal injuries by reason of the negligence of another exercises reasonable care in securing the services of a competent physician or surgeon and his injuries are thereafter aggravated or increased by the negligence, mistake, or lack of skill of such physician or surgeon, the law regards the negligence of the wrongdoer in causing the original injury as the proximate cause of the damages flowing from the subsequent negligent or unskilful treatment thereof, and holds him liable thereafter. The reason why a wrongdoer is held liable for the negligence of a physician whose unskilful treatment aggravates an injury is, that such unskilful treatment is a result which reasonably ought to have been anticipated by him.

This rule is recognized in Purchase v. Seelye, 231 Mass. 434, 121 N. E. 413, 8 A.L.R. 503, but the court held therein that a railroad company whose negligence causes hernia in an employee is not liable to him for injuries caused by a surgeon, in operating on the wrong side to relieve the hernia because of mistake as to the identity of the patient. It was considered that such mistake did not flow legitimately from the original injury as a natural result thereof, and that the wrongdoer was not liable for the intervening cause. The court observes: "The fact that the mistake made by the defendant might possibly occur is not enough to charge the railroad company with liability; the unskilful or improper treatment must have been legally and constructively anticipated by the original wrongdoer, as a rational and probable result of the first injury. This is the true test of responsibility."

Signs of the Times.

A DEAF-MUTE residing in Michigan has been granted a divorce, according to news despatches, because his wife, also a deaf-mute, "nagged him in the sign language." He stated, through an interpreter, that his wife tipped him the high signs which signify "mean names." He also charged that she used to pound on the table, and explained that, while deaf-mutes cannot hear sounds, they can feel them, and that the table pounding caused him great agony.

The cases dealing with conduct amounting to treatment "endangering life," under a statute thus defining the cruelty for which a divorce may be granted, are gathered in a note in 5 A.L.R. 712.

TEXTBOOKS

OF RECOGNIZED VALUE

ABSTRACTS	
Thompson, Title to Real Property, Including Abstracts, 1919	$7.50
AGENCY	
Mechem, 2nd edition, 2 volumes, 1914	15.00
AUTOMOBILES	
Berry, 2nd edition, 1 volume, 1916	8.50
BANKRUPTCY	
Brandenburg, 4th edition, 1 volume, 1917	11.00
Remington, 2nd edition, 3 volumes, 1915	22.50
BANKS AND BANKING	
Morse, Banks and Banking, 2 volumes, 1917	15.00
BENEFIT SOCIETIES	
Bacon, 4th edition, 2 volumes, 1916	15.00
BLUE SKY LAWS	
Elliott, 1 volume, 1919	7.50
CARRIERS	
Roberts, Federal Liability of Carriers, 2 volumes 1917 and 1920 Supplement	17.50
Watkins, Shippers & Carriers, 3rd ed. 2 vols. 1920	18.00
CONTRACTS	
Elliott, 7 vols. with 1919 Supplement	60.00
Page, 2nd edition, 7 volumes, 1920	60.00
CORPORATIONS	
Conyngton, Corp. Organization & Management, 1 vol. 1918	6.00
CRIMINAL LAW	
Wharton, Criminal Evidence, 2 vols. 1912	17.00
Wharton, Criminal Law, 3 vols. 1912	25.00
Wharton, Criminal Procedure, 4 vols. 1918	32.30
Wharton on Homicide 1 vol. 1907	12.00
DIVORCE	
Schouler, Marriage & Divorce, 3 volumes 1920	30.00
EQUITY	
Pomeroy, Equity Jurisprudence, 4th edition, 6 vols. 1918	50.00
FORMS	
Jones, Legal Forms, 1 vol. 1919	10.00
INSURANCE	
Joyce, 2nd edition, 5 vols. 1918	45.00
OIL AND GAS	
Morrison, 1 volume, 1920	10.00
Thornton, 3rd edition, 2 vols. 1918	15.00
REAL PROPERTY	
Thompson, Title to Real Property, 1 volume 1919	7.50
Tiffany, 2nd edition, 3 volumes, 1920	30.00
RECEIVERS	
Smith (By Tardy) 2 volumes, 1920	15.00
U. S. COURTS	
Loveland's Forms of Federal Practice, 2nd ed. 3 vols. 1920	25.00
Montgomery, Manual of Federal Practice, 2nd edition, 1 volume, 1918	9.00
Federal Statutes Annotated vols. 1 to 12, 1918 and 1919 Supplements	105.00
U. S. Compiled Statutes, Compact ed. & 1919 Supp.	10.00
WILLS	
Alexander, 3 volumes, 1918	25.00

(Check after the Price.)

The Lawyers Co-op. Publishing Company

Rochester, N. Y.

Send me prepaid, the books which I have checked above.

Name Address

C 12-20

Recent Important Cases

Bail — *forfeiture — insanity as defense.* That the principal is insane and in custody of the authorities in another state is held to be a defense to a proceeding to forfeit his bail bond in the Colorado case of Smith v. People, 184 Pac. 372, annotated in 7 A.L.R. 392.

Bailment — *liability of railroad company maintaining parcel stand.* A railroad company, which for compensation receives and checks parcels for safe-keeping, is held liable for losses caused through negligence of its servants in the Tennessee case of Dodge v. Nashville, C. & St. L. R. Co. 215 S. W. 274, which is followed in 7 A.L.R. 1229, by a note on the liability of a carrier in respect to baggage checked in a parcel room.

Banks — *check to order of cashier — loss from misappropriation.* The loss due to the misappropriation by a bank cashier of the proceeds of a check made payable to him personally to satisfy a note held by the bank against the drawer must, it is held in the California case of National Bank v. Whitney, 183 Pac. 789, in case both persons are equally innocent, fall upon the bank, rather than upon the drawer.

Whether making paper payable to an agent charges the drawer with loss due to the agent's misappropriation is treated in the note appended to this case in 8 A.L.R. 298.

Banks — *power to operate street railway.* That a national bank is without power to obligate itself to operate a street or interurban railroad is held in the Ohio case of Gress v. Ft. Loramie, 125 N. E. 112, which is annotated in 8 A.L.R. 242 on the power and duty of a bank which has acquired a public service plant to continue its operation.

Bonds — *municipal — illegal — return of purchase price.* A city which receives money for its bonds under the mistaken belief of both parties that they were valid, when the statute under which they were issued is unconstitutional, is held bound in the Kentucky case of Henderson v. Redman, 214 S. W. 809, to return the money received as money had and received to the use of the purchaser, and it is immaterial that it may have paid out the money for improvements for which it was not liable.

The liability of a public corporation for money received by it for an unlawfully issued instrument of indebtedness is treated in the note which accompanies this case in 7 A.L.R. 346.

Broker — *authority to receive payment.* That a broker has no implied authority to receive payment for the property for which he secures a purchaser is held in Lawrence Gas Co. v. Hawkeye Oil Co. 182 Iowa, 179, 165 N. W. 445, 8 A.L.R. 192.

Broker — *commission — purchase through stranger.* A broker introducing a purchaser to the owner of real estate is held not entitled to a commission in Ritch v. Robertson, 93 Conn. 459, 106 Atl. 509, annotated in 7 A.L.R. 81, if the customer secures a third person to make the purchase at more advantageous terms than he can secure, and immediately convey to him, he denying desire to purchase upon inquiry from the owner, and the owner not knowing of his interest until after the contract to sell is made.

Carrier — *duty to furnish facilities — effect of war.* A common carrier, it is held in Norfolk & W. R. Co. v.

Public Service Commission, 82 W. Va. 408, 96 S. E. 62, annotated in 8 A.L.R. 155, will not be excused from its duty of furnishing shipping facilities to one offering commerce to it, upon the ground that all of its energies are required to meet government needs, brought about by the present state of war, where it does not appear that the granting of such facilities would divert any of the carrier's energies, or require of it service which would make it less able to perform its public duty.

Carrier — *stoppage in transitu — duration of right.* The right of stoppage in transitu is held in Coleman v. New York, N. H. & H. R. Co. 215 Mass. 45, 102 N. E. 92, 7 A.L.R. 1366, to endure so long as the goods remain in possession of the carrier by virtue of the contract of carriage and until there has been an actual or constructive delivery to the consignee. So the right of stoppage in transitu is held not lost in Northern Grain Co. v. Wiffler, 223 N. Y. 169, 119 N. E. 393, by the vendee's taking his bill of lading to the carrier and having it stamped "Canceled by delivery," if he immediately inspects the goods, refuses to accept them, has the indorsement canceled, and leaves them in the possession of the carrier, which subsequently sells them for freight charges.

An extensive note on when the right of stoppage in transitu terminates accompanies these cases in 7 A.L.R. 1374.

Checks — *for gambling debt — effect of Negotiable Instruments Act.* That the Negotiable Instruments Law did not repeal an existing statutory

provision making void checks given for a gambling debt is held in the Iowa case of Plank v. Swift, 174 N. W. 236, which is followed in 8 A.L.R. 309, by a note on the effect of the Negotiable Instruments Act on a statute invalidating an instrument given for a gambling consideration.

Constitutional law — *police power — destruction of injured animal.* That the police power does not extend to the destruction of animals diseased or injured beyond recovery without notice to the owner and opportunity for him to be heard is held in the Maine case of Randall v. Patch, 108 Atl. 97, which is accompanied in 8 A.L.R. 65, by a note on the constitutionality of a statute or ordinance providing for the destruction of animals.

Contract — *securing breach — liability.* That no action lies against one who persuades another's employee to leave his employment after the terms under which he is bound to continue the employment have ceased is held in Triangle Film Corp. v. Artcraft Pictures Corp. 163 C. C. A. 231, 250 Fed. 981, which is annotated in 7 A.L.R. 303, on the right to hire one who violates no contract in leaving another's employment.

Corporation — *creditor's suit on stock subscription.* That an unsecured creditor of an insolvent corporation cannot maintain an action at law for his own benefit to recover his claim from one who has not paid his subscription to the stock of the corporation is held in Montesano v. Carr, 80 Wash. 384, 141 Pac. 894, annotated in 7 A.L.R. 95.

Corporation — *stock issued for property at discount — effect of knowledge of creditors.* One giving credit to a corporation with full knowledge that its stock was issued for property worth less than the par value of the stock cannot, it is decided in Sherman v. Harley, 178 Cal. 584, 174 Pac. 901, 7 A.L.R. 950, hold the stockholders liable for the unpaid balance of the value of the stock.

Covenant — *maintenance of railroad — term.* A covenant to build and maintain a railroad in consideration of a grant of a right of way and other property is held not to require operation in perpetuity, but to be satisfied by operation for twenty-five years, in the Washington case of Scheller v. Tacoma R. & Power Co. 184 Pac. 344, which is accompanied in 7 A.L.R. 810, by a note on the period covered by a covenant or condition subsequent for the maintenance of a railroad.

Damages — *for wrongful death of minor.* The damages recoverable by the next of kin for wrongful death of a minor are held in Dimitri v. Cienci, 41 R. I. 393, 103 Atl. 1029, to be the present value of the gross amount of his prospective earnings less what he would have had to lay out as a producer to render the service or acquire the money and also less the money which he would have earned during minority.

The measure of damages recoverable in behalf of the estate of an infant for his wrongful death is treated in the note appended to this case in 7 A.L.R. 1336.

Damages — *for wrongful discharge from employment.* The measure of damages recoverable by a wrongfully discharged employee is held in the Delaware case of Ogden-Howard Co. v. Brand, 108 Atl. 277, to be the stipulated salary for such period as he may be entitled to recover damages, less any amount he actually received or might have received by due and reasonable diligence during such period after discharge.

The doctrine of constructive serv-

ice as applied to a wrongfully discharged servant is treated in the annotation appended to this case in 8 A.L.R. 334.

Death — *caused by resisting arrest — liability.* The driver of an automobile, who, after being lawfully placed under arrest by the sheriff, who stepped upon the running board of the car, attempts to escape by increasing the speed of the car and struggling with the sheriff for its control, and kills the sheriff by driving the car against an obstacle, is held liable in damages for his death in Weissengoff v. Davis, 260 Fed. 16, which is accompanied in 7 A.L.R. 307, by a note on civil liability for killing or injuring one who was attempting to make an arrest.

Decedent's estate — *suit to recover assets — parties.* That a mere creditor of a decedent's estate cannot maintain an action to recover assets owing to the estate is held in Ryan v. Kelsey, 259 Fed. 945, annotated in 7 A.L.R. 234.

Dedication — *right of way — permissive use.* Dedication of a right of way for a footpath along the edge of a lot abutting on a railroad right of way is held effected in Bloomfield v. Allen, 146 Ky. 34, 141 S. W. 400, where it lies between the turnpike and the depot, by the owner's consent to a neighbor's building a sidewalk upon it, followed by use by the public in going to and from the depot for more than twenty-five years, while individuals have bought lots access to which is secured by such way upon the faith of its being public, and the owner has complied with the direction of the town to reconstruct the sidewalk.

The subject of dedication of footways by permissive use is treated in the note appended to this case in 7 A.L.R. 122.

Ejectment — *tracing title — common source.* That the plaintiff in ejectment need not trace title beyond the common source is held in Jennings v. Marston, 121 Va. 79, 92 S. E. 821, annotated in 7 A.L.R. 855.

Estoppel — *to enforce stockholder's liability.* A creditor of a corporation, it is held in the Delaware case of Du-Pont v. Ball, 106 Atl. 39, is not estopped to enforce the statutory liability of stockholders for the unpaid amount of their subscriptions by assisting or acquiescing in the issuance of the stock as full-paid and nonassessable, although it is not paid for in fact.

The effect upon a stockholder's liability of the creditor's knowledge that the stock is unpaid is treated in the note which accompanies this case in 7 A.L.R. 955.

Evidence — *judicial notice — days and dates.* That judicial notice will be taken of the coincidence of the days of the week with the days of the month, and of the days of the month on which Sunday falls, is held in the Oklahoma case of Canafax v. Bank of Commerce, 184 Pac. 1014, annotated in 8 A.L.R. 59.

Evidence — *reproduction of conditions — sufficiency.* Substantial reproduction of conditions is held sufficient in Amsbary v. Grays Harbor R. & Light Co. 78 Wash. 379, 139 Pac. 46, 8 A.L.R. 1, to render admissible evidence of the result of experiments upon the question how far from a street car a person lying beside the track could be seen.

That the conditions in the experiment and in the transaction sought to be illustrated do not have to be exactly alike to warrant the admission of experimental evidence is held in the Oregon case of Kohlhagen v. Cardwell, 184 Pac. 261, which is accompanied in 8 A.L.R. 11, by a note on experimental evidence as affected by similarity or dissimilarity of conditions.

Executor and administrator — *expense of appeal from rejection of will.* An executor nominated in a will, though acting in good faith, is held in the Minnesota case of Minnesota Loan & T. Co. v. Pettit, 175 N. W. 540, not entitled to reimbursement out of funds of the estate for his services, expenses, and attorney's fees, in an unsuccessful effort to sustain the will upon appeal against a contest by the widow and sole heir on the ground that the will is void under the statute.

The right of an executor to an allowance for expenses incurred in an unsuccessful attempt to uphold particular provisions of the will is treated in the note appended to the foregoing decision in 7 A.L.R. 1496.

Highway — *original grade — nonabutting property — injury — liability.* That there is no exemption from liability for injury to nonabutting property by bringing a highway to an original grade, which is due to negligence in the performance of the work, is held in Lochore v. Seattle, 98 Wash. 265, 167 Pac. 918, which is followed in 7 A.L.R. 800, by a note on the liability of a municipality for an injury to lateral support in grading a street.

Highway — *right to obstruct — contractor for improvement.* That one contracting to improve a public street has the right to obstruct public travel over the section of the street upon which he is at work is held in the Utah case of Davis v. Mellen, 182 Pac. 920, which is accompanied in 7 A.L.R. 1193, by a note on the right and duty of a highway contractor as to barricading or obstructing a street.

Husband and wife — *annulment of marriage for epilepsy.* In an action to annul a marriage contract upon the ground that one of the parties there-

to was an epileptic at the time of the marriage, proof that the defendant was an epileptic at the time of such marriage is held not sufficient to warrant a decree of annulment in the Minnesota case of Behsman v. Behsman, 174 N. W. 611, annotated in 7 A.L.R. 1501, in the absence of a showing of fraud on the part of the afflicted party in concealing the epileptic condition.

Infant — *contract by guardian ad litem — attorneys' compensation.* A guardian ad litem for an infant is held to have no authority to contract with attorneys employed to bring suit on its behalf as to the compensation to be received by them in Plummer v. Northern P. R. Co. 98 Wash. 67, 167 Pac. 73, annotated in 7 A.L.R. 104.

Infant — *contract for attorney's fees — how far binding.* A contract between an attorney and an infant for whom he is to bring suit, for attorney's fees, is held binding as one for the necessaries of life in the Arkansas case of Midland Valley R. Co. v. Johnson, 215 S. W. 665, annotated in 7 A.L.R. 1007, on the liability of an infant for an attorney's services in a personal injury action, if the infant was sufficiently intelligent to understand the nature and extent of the contract.

Injunction — *against threatening bowling alley.* One residing in a residence district of a municipality is held entitled, in Hamilton Corp. v. Julian, 130 Md. 597, 101 Atl. 558, to enjoin the threatened erection of a bowling alley and moving picture theater adjoining his residence if the act complained of will, in the judgment of reasonable men, be naturally productive of actual physical discomfort to persons of ordinary sensibilities and of ordinary tastes and habits, and, in view of all the circumstances of the case, will be in derogation of the rights of the complainant.

The right to enjoin a threatened or anticipated nuisance is treated in the note which accompanies this case in 7 A.L.R. 746.

Insurance — *accident — freezing — catching foot.* A provision in an insurance policy limiting the recovery in case of accidental injury causing the loss, or the loss itself, results from freezing sustained by the insured while not engaged in his occupation, is held in the Mississippi case of Continental Casualty Co. v. Hardenbergh, 83 So. 278, to apply to the death of a hunter who catches his foot in a hole while wading in water on a cold day, and is subsequently found with his body frozen stiff and the water frozen around it.

Liability under an accident policy for injury or death from freezing is treated in the note appended to this case in 8 A.L.R. 229.

Insurance — *accident — infected wound — voluntary act.* Death from inflammation of the brain caused by infection due to voluntarily puncturing a pimple on the lip is held to be within a policy insuring against loss resulting from bodily injuries effected solely through accidental means in Lewis v. Ocean Acci. & Guarantee Corp. 224 N. Y. 18, 120 N. E. 56, which is accompanied in 7 A.L.R. 1129, by a note on death or injury resulting from the insured's voluntary act as caused by accident or accidental means.

Insurance — *against injury to fruit — fertilized blossom.* That insurance against damage or loss to fruit by hail covers injury to fertilized blossoms, which prevents their maturing into fruit, is held in Harris v. Michigan Mut. Hail Ins. Co. 207 Mich. 182, 173 N. W. 533, 7 A.L.R. 366.

Insurance — *exception of loss in military service — public policy.* A

provision in an insurance policy against liability for death while in the military service of the United States is held not against public policy in the Arkansas case of Miller v. Illinois Bankers' Life Asso. 212 S. W. 310, accompanied by supplementary annotation in 7 A.L.R. 378.

Insurance — *intentional injuries — mistaken identity.* A provision contained in an accident insurance policy, which excepts from operation of the policy "injuries intentionally inflicted upon the insured by any other person," is held in the Oklahoma case of General Acci. Fire & Life Assur. Corp. v. Hymes, 185 Pac. 1085, annotated in 8 A.L.R. 318, to contemplate injuries intended against the insured, and not injuries intended against another, and such exception will not relieve the insurer from liability for an injury to the insured inflicted by another person, where the other person, intending to injure someone other than the insured, mistook the insured for the person to be injured, and intentionally inflicted upon him the bodily injury while the insured was not aware of the intent to injure him and had done nothing to bring about the injury.

Judge — *disqualification — wife a stockholder in corporation.* That the wife of a judge holds stock in a corporation which is a party to a suit before him is held not to disqualify him, in the California case of Favorite v. Superior Ct. 184 Pac. 15, from sitting in the cause, under a statute working such disqualification if he is related to a party to the cause.

The subject of disqualification of a judge by a relative's ownership of stock in a corporation which is a party to an action or proceeding is discussed in the note accompanying this decision in 8 A.L.R. 290.

Landlord and tenant — *covenant not to sublet — effect of assignment.*

A covenant in a lease not to sublet the premises, the terms of which are not enlarged by anything in the context, nor otherwise, accompanied by a forfeiture and re-entry clause, is held not broken by an assignment of the lease, in the West Virginia case of Goldman v. Daniel Feder & Co. 100 S. E. 400, which is annotated in 7 A.L.R. 246.

Landlord and tenant — *lease for rag business — deprivation of beneficial use.* The forbidding by public authorities of further use of a building leased for the rag and junk metal business for the storage of rags in the building is held not to destroy the beneficial use of the leased property so as to justify the lessee in abandoning the premises, in the Iowa case of Conkling v. Silver, 174 N. W. 573, which is followed in 7 A.L.R. 832, by a note on the effect upon a lease of property for specified exclusive uses of a partial restriction upon such uses by statute, ordinance, or ruling adopted or made during the term.

Landlord and tenant — *right of dispossessed tenant.* A tenant in possession under an unexpired lease, who has not abandoned the premises, although not upon them when entry thereon is made, is held, in the New Mexico case of Harris v. Keehn, 184 Pac. 527, to have a right to the possession of said premises against the world, and may recover damages from one who disturbs or deprives him of such possession.

The right of a tenant to treat an interference with his possession as an eviction and to recover damages for the loss of the unexpired term is discussed in the note which follows this case in 7 A.L.R. 1099.

Libel — *publication — writing name on hospital records.* The mere writing of the word "colored" opposite the name of a patient on the records of a hospital is held not a publication in the Oklahoma case of Collins v. Oklahoma State Hospital, 184 Pac. 946, 7 A.L.R. 895, so as to become libelous if there is nothing to show that the records had ever been examined or read by any person whatever.

The question of entries in records as a publication is treated in the note which accompanies this case in 7 A.L.R. 895.

Monopoly — *unlawful combination — maintaining resale prices.* Conduct of a manufacturer which, as intended, has the effect of procuring adherence on the part of its wholesale and retail customers to resale prices fixed by it, is held in United States v. Colgate & Co. 250 U. S. 300, 63 L. ed. 992, 39 Sup. Ct. Rep. 465, not to offend against the unlawful combination provisions of the Sherman Anti-trust Act of July 2, 1890, where there was no agreement which obligated any dealer not to resell except at the fixed prices, his course in this respect being affected only by the fact that he might, by his action, incur the displeasure of the manufacturer, who could refuse to make further sales to him.

The right of a manufacturer, producer, or wholesaler to control the resale price is treated in the note appended to this case in 7 A.L.R. 443.

Ne exeat — *power of court to grant in divorce proceeding.* Jurisdiction to grant divorces with authority to do all acts and things necessary and proper in such actions and to carry its orders and judgments into execution is held to include power to grant writs of ne exeat to prevent defendant from leaving the jurisdiction to avoid payment of alimony, in the Wisconsin case of Ex parte Grbic, 174 N. W. 546, annotated in 8 A.L.R. 325.

Negligence — *fall of cornice into*

street — liability of contractor. A contractor who constructs a cornice upon a building is held not liable in Howard v. Redden, 93 Conn. 604, 107 Atl. 509, for injury to a pedestrian by its fall onto the sidewalk beneath it through the negligence of the owner of the building in permitting the fastenings to rust and rot away.

The liability for injury to a person in the street by the fall of a part of the structure of a completed building is treated in the note which follows this in 7 A.L.R. 198.

Nuisance — *unsafe premises — liability of vendor.* That any unsafe condition of property which will render one selling it liable to subsequent occupants must exist at the time of the sale, and not arise subsequently, is held in Mercer v. Meinel, 290 Ill. 395, 125 N. E. 288, which is followed in 8 A.L.R. 351, by a note on the liability of a former owner of real estate because of a violation of a statute or ordinance relating to the condition of the premises.

Parent and child — *right to sue for support.* An infant is held not entitled, in the Mississippi case of Rawlings v. Rawlings, 83 So. 146, annotated in 7 A.L.R. 1259, to maintain a bill in equity against his father to determine in advance the amount of support and maintenance to which he is entitled, and secure an order requiring the father to furnish it.

Perjury — *verification of pleading.* The verification of a pleading is held in the Wisconsin case of Lappley v. State, 174 N. W. 913, annotated in 7 A.L.R. 1279, to be within the operation of a statute providing punishment for anyone who, being lawfully required to depose the truth on his oath, shall wilfully and corruptly swear falsely to any matter or thing respecting which such oath is by law authorized or required.

Robbery — *taking money from pocket of drunken man.* The taking of money from the pocket of a drunken man, which requires no force or violence, is held not robbery, although, upon being accused of the theft, the thief assaults his victim, in People v. Jones, 290 Ill. 603, 125 N. E. 256, which is accompanied in 8 A.L.R. 357, by a note on taking property from a person by stealth as robbery.

Witness — *knowledge of handwriting through possession.* Grandchildren who have obtained their knowledge of their grandmother's handwriting only by inspection and repeated readings of letters from the grandmother to their mother, preserved by the family for a long period of time for sentimental reasons, are held qualified to testify to their opinions as to the genuineness of the grandmother's signature in the West Virginia case of Johnston v. Bee, 100 S. E. 486, which is followed in 7 A.L.R. 252, by a note on knowledge derived from family correspondence as qualifying one to testify as to the genuineness of handwriting.

Workmen's compensation — *surgical aid — artificial limb.* The surgical aid to which an injured employee is entitled under the Workmen's Compensation Act is held to include an artificial limb if such appliance is necessary, in Olmstead v. Lamphier, 93 Conn. 20, 104 Atl. 488, which is followed in 7 A.L.R. 542, by a note on the liability, under Compensation Statutes, of an employer or insurance company for medical and hospital aid furnished to an injured employee.

Travels Out of the Record

Working up to a Climax. Bad blood between Biggs and Jiggs in the mountain section of northeast Pennsylvania came apace, when Biggs put up a fence which blocked an old cowpath, and Jiggs's cattle were called upon to detour. Jiggs tore the fence down. Biggs put it up again; then Jiggs demolished it once more. Biggs went to an attorney and asked what he could do. The lawyer said, "It is trespass. I can sue him for you. The cost will be about $10." Biggs produced a greasy wallet, and $20 in currency, and said: "I want you to law that sucker. I want him lawed a good $20 worth. As soon as you get the case started call him a blankety-blank"—this volley included about every banned epithet in the English language, any of which, would have meant contempt proceedings by the court. "After that," continued Biggs, "begin to warm up gradual, and leave Jiggs know that when I law a man I law him proper."

Still in Vogue. The following lines from the London Chronicle of more than a hundred years ago, is still being pulled:

"Said his landlord to Thomas, 'Your
rent I must raise,
I'm so plaguily pinch'd for the pelf.'
'Raise my rent?' replies Thomas.
'Your honor's main good;
For I never can raise it myself.'"

Balled up the Barber. Judge Blank is fond of relating how he put one over on the barber who wished to make a sale. The man had just shaved him, and wanted to sell him a lotion to use on his face when he shaved himself.

"Is this what you use on your customers?" asked the judge.

"No," replied the barber, "It's so expensive I cannot afford it."

"If you can't afford it when you get 20 cents for shaving a man," returned the judge, "how do you expect me to afford it when I shave myself for nothing?"

The barber was nonplussed and gave up trying to make the sale.—Boston Transcript.

The Downward Path in Britain. A little girl was haled before the justices for killing a farmer's poultry, not without using bad language. "Little girl," said the magistrate, "you see how one thing leads to another. You began by cursing your Maker, and you end by throwing a stone at a hen."—London Daily Chronicle.

His Honor's Guess. In Ireland some years ago an Irish-American was brought up before Justice Barry on the charge of suspicious conduct. The officer who arrested him stated, among other things, that he was wearing a "Republican hat."

"Does your Honor know what that is?" asked the counsel.

"It may be," responded the judge, "that it's a hat without a crown."—Boston Transcript.

Footing the Bill. "Bill's going to sue the company for damages."

"Why, what did they do to him?"

"They blew the quittin' whistle when 'e was carryin' a 'eavy piece of iron, and 'e dropped it on 'is foot."—New York Central Magazine.

Darkness Defined. A tourist reports seeing the following police regulation posted up in Ireland: "Until further notice, every vehicle must carry a light when darkness begins. Darkness begins when the lights are lit."—Boston Transcript.

An Eye for a Tooth. In a certain part of Africa is a doctor who acts as understudy to the magistrate. Recently each was conscious of having transgressed by riding a bicycle without a light. They decided that the majesty of the law would best be vindicated by each appearing before the other. The magistrate, taking precedence, first tried the doctor and fined him 5 rupees. Then the doctor tried the magistrate and fined him 100. The reason he gave for his severity was that the offense was becoming far too common.—London Morning Post.

Must Be a Lawyer. "Yes," said the man who was proud of his library, "whenever I find one of my books with a torn leaf I put it through a legal process."

"What legal process?" his visitor asked.

"I have it bound over to keep the piece."—Boston Transcript.

One Explanation. "Rastus, what's an alibi?"

"Dats provin" dat you wuz at prayer meeting' whar you wasn't, in order to show dat you wasn't at the crap game whar you wuz."—Lehigh Burr.

Gross Ignorance. A Pittsburgh lawyer was conducting a case in court not long ago, and one of the witnesses, a burly negro, confessed that at the time of his arrest he was engaged in a crap game. Immediately the lawyer said: "Now sir, I want you to tell the jury just how you deal craps."

"Wass dat?" asked the witness, rolling his eyes.

"Address the jury, sir," thundered the lawyer, "and tell them just how you deal craps."

"Lemme outen heah!" cried the witness uneasily. "Fust thing I know this gemman gwine to ask me how to drink a sandwich."

Does So. "I stole $10."

"Well?"

"Can't I plead insanity?"

"Wouldn't wonder if you could," replied the lawyer. "It looks like insanity to steal $10."—Louisville Courier-Journal.

Modern Version. "A revised marriage ceremony might be appropriate to the times."

"Perhaps."

"At the point where the preacher says, 'For better or for worse,' a wag suggests, 'For keeps or alimony.'"—Birmingham Age-Herald.

Judge Had it Wrong. Charged with stealing a cheese, a man was brought up before a magistrate. The principal witness, a carter, told how he had seen the man snatch up the cheese, and had run up and held him.

"Then you caught him in the nefarious act?" said the magistrate.

"The what, sir?" said the witness.

"You caught him in the nefarious act, I say," repeated the magistrate.

"Not me!" was the reply. "I caught him in the passage just beside the grocer's shop."—London Answers.

The Hardest Part. Judge: "Did your wife hit you with a piece of bric-a-brac?"

Mulligan: "Divil a brack about it, yer Honor; just the brick."

In Doubt. The pompous politician burst into the lawyer's office and in an excited manner asked: "What would you do if a paper should call you a thief and a liar?"

"Well," said the lawyer scrutinizingly, "if I were you I'd toss up a nickel to see whether I'd reform or lick the editor."—Country Gentleman.